

TITLE IX
PROPERTY

CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

701—70.1(437A) Who must file return. Each taxpayer, as defined in Iowa Code Supplement section 437A.3(30), shall file a true and accurate return with the director. The return shall include all of the information prescribed in Iowa Code sections 437A.8(1) “a” through “f” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—70.2(437A) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—70.3(437A) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for same to the department in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer’s return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return’s being filed after the due date.

701—70.4(437A) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall never be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer’s replacement tax obligation.

701—70.5(437A) Statute of limitations.

70.5(1) The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. This three-year statute of limitations does not apply in the instances specified in 70.5(2).

70.5(2) If a taxpayer files a false or fraudulent return with the intent to evade any tax, the correct amount of tax due may be determined by the director at any time after the return has been filed.

70.5(3) If a taxpayer fails to file a return, the three-year period of limitations does not begin to run until the return is filed with the director.

70.5(4) Waiver of statute of limitations. The department and the taxpayer may extend the three-year period of limitations provided in 70.5(1) above by signing a waiver agreement form provided by the department. The agreement shall designate the period of extension and the tax year for which the extension applies. The agreement shall provide that the taxpayer may file a claim for refund of replacement tax at any time prior to the expiration of the agreement.

701—70.6(437A) Billings.**70.6(1) Notice of adjustments.**

a. An agent, auditor, clerk, or employee of the department, designated by the director to examine returns and make audits, who discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due, is authorized to notify the person of this discovery by ordinary mail. This notice is not an assessment. It informs the person what amount would be due if the information discovered is correct. A copy of such notice shall also be sent to the appropriate county treasurer.

b. Right of person upon receipt of notice of adjustment. A person who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the person wishes to contest the matter, the person should file a timely claim for refund. However, payment will not be required until an assessment has been made (although interest will continue to accrue if timely payment is not made). If no payment has been made, the person may discuss with the agent, auditor, clerk, or employee who notified the person of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. This person may also ask for a conference with the Department of Revenue, Property Tax Division, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the person's position may be required.

c. Power of agent, auditor, or employee to compromise tax claim. No employee of the department has the power to compromise any tax claims. The power of the agent, auditor, clerk, or employee who notified the person of the discrepancy is limited to the determination of the correct amount of tax.

70.6(2) Notice of assessment. If, after following the procedure outlined in 70.6(1)“b,” no agreement is reached and the person does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.41(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.41(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in Iowa Code section 437A.14(1)“b” for filing such claims.

70.6(3) *Supplemental assessments and refund adjustments.* The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.41(17A)) and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer. Such resolution shall preclude the director and the taxpayer from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax year unless there is a showing of mathematical or clerical error or showing of fraud or misrepresentation.

701—70.7(437A) Refunds.

70.7(1) A claim for refund of replacement tax may be made on a form obtainable from the department. All claims for refund should be filed with the director, and not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim. All claims for refund must be in writing.

70.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of Iowa Code section 437A.8(7) are applicable.

70.7(3) Refunds—statute of limitations. The statute of limitations with respect to which refunds or credits may be claimed are:

a. The later of three years after the due date of the tax payment upon which the refund or credit is claimed; or one year after which such payment was actually made.

b. Ninety days after the due date of the tax payment upon which refund or credit is claimed if the tax is alleged to be unconstitutional.

70.7(4) No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid to the appropriate county treasurer under written protest which specifies the particulars of the alleged unconstitutionality.

70.7(5) The taxpayer responsible for paying the tax, or the taxpayer's successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

70.7(6) The director will promptly notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

70.7(7) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file a protest according to the provisions of rule 701—7.41(17A).

701—70.8(437A) Abatement of tax. The provisions of rules 701—7.31(421) and 7.38(421,17A) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director's decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—70.9(437A) Taxpayers required to keep records.

70.9(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the number of taxable kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year. Such records shall also include those for calendar year 1998.

b. Records associated with the number of taxable kilowatt-hours of electricity consumed within each electric competitive service area during the tax year where the delivery of such electricity is not subject to the replacement delivery tax.

c. Records associated with the average centrally assessed property tax liability allocated to electric service of each taxpayer, other than a municipal utility, principally serving an electric competitive service area and of each generation and transmission electric cooperative for the assessment years 1993 through 1997. For municipal utilities, such records shall be for the 1997 assessment year and shall also include records associated with items in 1999 Iowa Acts, Senate File 473, section 30.

d. Records associated with the number of taxable kilowatt-hours of electricity generated within the state of Iowa during the tax year. Such records shall also include those for calendar year 1998.

e. Records associated with taxable pole miles of transmission lines owned or leased by the taxpayer for each of the line voltage tiers subject to tax imposed in Iowa Code section 437A.7. Such records shall also include those for calendar year 1998.

f. Records associated with the excess property tax liability of each generation and transmission electric cooperative assigned to the electric competitive service areas principally served on January 1, 1999, by its distribution electric cooperative members and by those municipal utilities which were purchasing members of a municipal electric cooperative association that is a member of the generation and transmission electric cooperative. Such records shall include those for calendar year 1998. "Excess property tax liability" means the amount by which the average centrally assessed property tax liability for the assessment years 1993 through 1997 of a generation and transmission electric cooperative exceeds the tentative generation and transmission taxes which would have been imposed on such generation and transmission electric cooperative under Iowa Code sections 437A.6 and 437A.7 for calendar year 1998.

g. Records associated with the number of taxable therms of natural gas delivered to consumers by the taxpayer within each natural gas competitive service area during the tax year. Such records shall also include those for calendar year 1998.

h. Records associated with the number of taxable therms of natural gas consumed within each natural gas competitive service area during the tax year where the delivery of such natural gas is not subject to the replacement delivery tax.

i. Records associated with the average centrally assessed property tax liability allocated to natural gas service of each taxpayer, other than a municipal utility, principally serving a natural gas competitive service area for the assessment years 1993 through 1997. For municipal utilities, such records shall be for the 1997 assessment year and shall also include records associated with items in 1999 Iowa Acts, Senate File 473, section 30.

j. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

k. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the electric and natural gas delivery tax rates are subject to recalculation under the provisions of Iowa Code section 437A.8(7).

l. Records associated with the kilowatt-hours of electricity and the therms of natural gas entitled to be exempted from the taxes imposed by Iowa Code sections 437A.4 to 437A.7 by the enumerated exemptions therein.

m. Records associated with kilowatt-hours of electricity and therms of natural gas delivered in a manner set forth in Iowa Code sections 437A.4(7) and 437A.5(6).

n. All work papers associated with any of the records described in this rule.

o. Records pertaining to any additions or deletions of property described as exempt from local property tax in Iowa Code section 437A.16.

p. Records associated with allocation of property described in paragraph "o" above among local taxing districts.

70.9(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the replacement taxes are reported, or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—70.10(437A) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—70.11(437A) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed, of information presented, or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—70.12(437A) Collections. Neither the director nor the department is empowered to receive any payment of replacement tax. Therefore, taxpayers should never pay any replacement tax to the director or the state of Iowa. All payments of replacement tax are to be made to the appropriate county treasurer.

701—70.13(437A) Information confidential. Iowa Code subsections 437A.14(2) and (3) apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

DIVISION II
STATEWIDE PROPERTY TAX

701—70.14(437A) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in Iowa Code section 437A.21 and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—70.15(437A) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—70.16(437A) Form for filing. Replacement tax rule 70.3(437A) is incorporated herein by reference.

701—70.17(437A) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—70.18(437A) Statute of limitations. Replacement tax rule 70.5(437A) is incorporated herein by reference.

701—70.19(437A) Billings.

70.19(1) Notice of adjustments. Replacement tax subrule 70.6(1) is incorporated herein by reference.

70.19(2) Notice of assessment. If, after following the procedure outlined in 70.6(1) “b,” no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.41(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.41(17A) to the director and file a refund claim with the director within the applicable period provided in Iowa Code sections 437A.22 and 437A.14(1) “b” for filing such claims.

70.19(3) Supplemental assessments. Replacement tax subrule 70.6(3) is incorporated by reference.

701—70.20(437A) Refunds. Replacement tax subrules 70.7(1) to 70.7(3), 70.7(5) and 70.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—70.21(437A) Abatement of tax. The provisions of rules 701—7.31(421) and 7.38(421,17A) are applicable to the statewide property tax.

701—70.22(437A) Taxpayers required to keep records.

70.22(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

- a.* Records associated with the assessed value and base year assessed value of property subject to the statewide property tax.
- b.* Records associated with the computation of the statewide property tax required to be shown due on the tax return.
- c.* Records associated with the book value of the local amount of any major addition by local taxing district.
- d.* Records associated with the book value of the statewide amount of any major addition.
- e.* Records associated with the book value of any building in Iowa at acquisition cost of more than \$10 million which was originally placed in service by the taxpayer prior to January 1, 1998, and which was transferred or disposed of in the preceding calendar year.
- f.* Records associated with the book value of any electric power generating plant in Iowa at acquisition cost of more than \$10 million which was originally placed in service by the taxpayer prior to January 1, 1998, and which was transferred or disposed of in the preceding calendar year.
- g.* Records associated with the book value of all other taxpayer property subject to the statewide property tax.
- h.* Records associated with the book value of any major addition, by situs, eligible for the urban revitalization exemption provided for in Iowa Code chapter 404.
- i.* All work papers associated with any of the records described in this rule.
- j.* Records associated with allocation of property subject to statewide property tax among local taxing districts.

70.22(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the statewide property tax is reported, or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—70.23(437A) Credentials. Replacement tax rule 70.10(437A) is incorporated herein by reference.

701—70.24(437A) Audit of records. Replacement tax rule 70.11(437A) is incorporated herein by reference.

These rules are intended to implement Iowa Code chapter 437A.

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